

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE:

AIR CARGO SHIPPING SERVICES  
ANTITRUST LITIGATION

MDL No. 1775

Master File 06-MD-1775 (JG) (VVP)

**ALL CASES**

**DECLARATION OF ROBERT N. KAPLAN**

I, Robert N. Kaplan, declare:

1. I am a partner in the law firm of Kaplan Fox & Kilsheimer LLP and am one of plaintiffs' co-lead counsel in the above-captioned action. I have personal knowledge of the facts stated in this declaration.

2. I submit this declaration in response to this Court's order to show cause, dated March 4, 2011, and respectfully submit that the Court should enter an order rejecting as untimely the requests of MAAX Bath Inc., MAAX US Corp., MAAX Corporation, MAAX Inc. and MAAX Canada (collectively, "MAAX") and Roche Diabetes Care AG (formerly Disetronic Medical Systems AG) ("Roche") for exclusion from the settlement class with respect to plaintiffs' settlement agreements with (1) Japan Airlines International Co. ("JAL"), (2) AMR Corporation and American Airlines, Inc. (collectively, "AA"), (3) Société Air France ("Air France"), Koninklijke Luchtvaart Maatschappij N.V., and Martinair Holland N.V. (collectively, "Air France/KLM"), and (4) Scandinavian Airlines System and SAS Cargo Group A/S (collectively, "SAS"), respectively (collectively, "the Settling Defendants") and the request of SDV Italia SPA ("SDV") for exclusion from the settlement classes under each of the foregoing settlement agreements, except the one with JAL.

3. Attached as Exhibit A is a true and correct copy of MAAX's request for exclusion.

4. Attached as Exhibit B is a true and correct copy of Roche's request for exclusion.

5. Attached as Exhibit C is a true and correct copy of SDV's request for exclusion.

6. Attached as Exhibit D is a true and correct copy of this Court's March 4, 2011 Order to Show Cause.

7. Attached as Exhibit E is a true and correct copy of a March 17, 2011 letter from George D. Ruttinger to Honorable John Gleeson [ECF No. 1425].

8. Attached as Exhibit F is a true and correct copy of this Court's March 18, 2011 order.

9. Attached as Exhibit G is a true and correct copy of a March 25, 2011 letter James R. Warnot, Jr., attorney for Air France, sent to SDV, via Federal Express, attaching this Court's March 4, 2011 Order to Show Cause and a Federal Express tracking sheet showing delivery of the letter.

10. Attached as Exhibit H is a true and correct copy of a March 25, 2011 letter Mr. Warnot sent to Roche, via Federal Express, attaching this Court's March 4, 2011 Order to Show Cause and a Federal Express tracking sheet showing delivery of the letter.

11. Attached as Exhibit I is a true and correct copy of a March 25, 2011 letter Mr. Warnot sent to MAAX, attaching this Court's March 4, 2011 Order to Show Cause and a Federal Express tracking sheet showing delivery of the letter.

12. Attached as Exhibit J is a true and correct copy of the March 30, 2011 certificate of service Mr. Warnot filed with this Court [ECF No. 1437] certifying that true and correct copies of the March 4, 2011 Order to Show Cause were served via Federal Express on MAAX and Roche.

13. Attached as Exhibit K is a true and correct copy of the March 30, 2011 certificate of service Mr. Warnot filed with this Court [ECF No. 1438] certifying that true and correct copies of the March 4, 2011 Order to Show Cause were served via Federal Express on SDV.

14. I have not received any response from SDV, Roche, or MAAX, and I have been informed by the other plaintiffs' co-lead counsel and Settling Defendants' counsel that they have not received any response. We are also unaware of any filed response by SDV, ROCHE or MAAX.

15. Attached as Exhibit L is a true and correct copy of the final judgment regarding JAL, dated April 6, 2011 [ECF No. 1446].


16. Attached as Exhibit M is a true and correct copy of the final judgment regarding AA, dated April 6, 2011 [ECF No. 1447].

17. Attached as Exhibit N is a true and correct copy of the final judgment regarding Air France/KLM, dated April 6, 2011 [ECF No. 1448].

18. Attached as Exhibit O is a true and correct copy of the final judgment regarding SAS, dated April 6, 2011 [ECF No. 1449].

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2011

  
Robert N. Kaplan